

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:15-CR-11-
	§	SDJ-AGD-1
ROMULO OVALLE LEAL	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the court is the request for revocation of Defendant Romulo Ovalle Leal's ("Defendant") supervised release. After the District Judge referred the matter to this court for a report and recommendation, the court conducted a hearing on July 23, 2024, to determine whether Defendant violated his supervised release. Defendant was represented by Douglas Schopmeyer of the Federal Public Defender's Office. The Government was represented by Chris Rapp.

Defendant was sentenced on December 28, 2015, before The Honorable Marcia A. Crone of the Eastern District of Texas after pleading guilty to the offense of Possession of a Firearm in Furtherance of a Drug Trafficking Crime, a Class A felony. This offense carried a statutory maximum imprisonment term of Life. The guideline imprisonment range, based on a total offense level of N/A and a criminal history category of IV, was 5 years. Defendant was subsequently sentenced to 60 months imprisonment followed by a five (5) year term of supervised release. He began his term of supervised release on March 6, 2020. On April 29, 2021, Defendant's supervision was revoked after it was alleged he violated his conditions of supervision by committing the offense of Manufacture/Delivery of a Controlled Substance, to wit: Methamphetamine; failing to report to the probation office as instructed; and failing to submit to drug testing as instructed. Upon revocation, Defendant was sentenced to six (6) months imprisonment followed by forty-eight (48) months of supervised release subject to the standard

conditions of release, plus special conditions to include financial disclosure and substance abuse treatment and testing. On August 27, 2021, Defendant completed his period of imprisonment and began service of the supervision term.

On December 29, 2021, the United States Probation Officer executed a First Amended Petition for Warrant or Summons for Offender Under Supervision. (Dkt. #65, Sealed). The First Amended Petition asserts that Defendant violated two conditions of supervision, as follows: (1) (mandatory) Defendant must not commit another federal, state, or local crime; and (2) (mandatory) Defendant must not unlawfully possess a controlled substance. (Dkt. #65 at pp. 1–2, Sealed).

The First Amended Petition alleges that Defendant committed the following acts: (1) According to an offense report/felony warrant, on September 28, 2021, in Collin County, Texas Defendant committed the offenses of Evading Arrest/Detention with Vehicle, a 3rd degree felony, and Manufacture/Delivery-Controlled Substance PG 1 4-200 grams, a 1st degree felony; and (2) According to the offense report/felony warrant, on September 28, 2021, Detective Wittwer saw Defendant toss a black baggie from his car. Inside the baggie were 13 small baggies, each containing a crystal-like substance that field tested positive for methamphetamine. The total weight of the methamphetamine was 6.4 grams. On December 11, 2021, Defendant was arrested for his outstanding warrants in this case and two state cases. During the arrest, Defendant advised officers that he was in possession of illegal narcotics. A small baggie with white crystal-like substance was located in his pocket. The substance field tested positive for methamphetamine and weighed approximately 3.8 grams (Dkt. #65 at pp. 1–2, Sealed).

Prior to the Government putting on its case at the final revocation hearing, the Government moved to dismiss allegation (2). Defendant entered a plea of true to allegation (1) of the First Amended Petition.

Having considered the First Amended Petition and the plea of true to allegation (1), the court finds that Defendant did violate his conditions of supervised release. Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for an additional term of thirty-seven (37) months to run concurrently with his state court cases in Collin County, Texas (219-82326-2022 and 219-82328-2022) with no supervised release to follow.

The court further recommends that allegation (2) be dismissed.

The court finally recommends that Defendant be housed in the Bureau of Prisons facility in the Forrest City, Arkansas area, if appropriate.

SIGNED this 27th day of September, 2024.



AILEEN GOLDMAN DURRETT
UNITED STATES MAGISTRATE JUDGE